

## LEONCIO P. VILORIA, PETITIONER, VS. HONORABLE COURT OF APPEALS AND SERVICE CENTER OF THE PHILIPPINES, RESPONDENTS.

*G.R. No. 63398. June 29, 1983*

Ponente: PLANA, J.

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### PLANA, J.:

Petitioner Leoncio P. Viloría used to be the manager of Service Center of the Philippines, the herein private respondent, until December 31, 1971 when he resigned. Thereafter Viloría filed a complaint with the Court of First Instance of Davao to collect a portion of the net profits of the Company pursuant allegedly to a profit-sharing agreement. The defendant filed its answer denying the existence of the alleged agreement, with a counterclaim for the recovery of unliquidated cash advances given to the plaintiff in the amount of P7,252.00.

After hearing, the lower court on October 11, 1974 rendered judgment dismissing the complaint for failure of the plaintiff to establish the existence of the alleged profit-sharing agreement. But the court sustained the counterclaim and ordered the plaintiff to pay P7,251.80 representing his unliquidated cash advances, with interest thereon at 12% per annum from June 7, 1972, the date of demand for payment made on the plaintiff.

On appeal, the Court of Appeals affirmed the decision en toto.

In this petition for review, the petitioner assails, firstly, the finding that there was no profit-sharing agreement; and secondly, the imposition of 12% interest on the sum awarded in favor of private respondent. Petitioner contends that Central Bank Circular No. 416 which raised pursuant to Presidential Decree No. 116 the rate of interest allowed in judgments from 6% to 12% took effect on July 29, 1974 and should not be given retroactive effect.

The first issue being factual, the finding of the court a quo, as affirmed by the Court of Appeals, will not be disturbed.

We sustain the petitioner on the second issue. He left the service of private respondent on December 31, 1971. On June 7, 1972, demand was made on him to pay his outstanding accounts. On July 29, 1974, the Central Bank issued Circular No. 416 as follows:

"By virtue of the authority granted to it under Section 1 of Act No. 2655, as amended, otherwise known as the "Usury Law", the Monetary Board, in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be twelve per cent (12%) per annum.

"This Circular shall take effect immediately."

On October 11, 1974 the trial court rendered its decision.

Since the legal rate of interest before July 29, 1974 was only 6%, and it was only on that date when the said rate was increased to 12% by Central Bank Circular No. 416, there is merit in the petitioner's contention that his

obligation to repay the advances he had received from private respondent should be subject only to 6% interest until July 29, 1974, because the Circular should not be given retrospective operation.

WHEREFORE, the petition is hereby granted partial due course in that the award of P7,251.80 to private respondent shall bear the legal rate of 6% interest until July 29, 1974, and 12% interest thereafter.

**SO ORDERED.**

Teehankee (Chairman), Escolin[\*], Relova and Gutierrez, Jr., JJ., concur.  
Melencio-Herrera and Vasquez, JJ., on leave.

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[\*] Venicio Escolin, J. was designated to sit in the First Division in lieu of Melencio-Herrera and Vasquez, JJ. who are on leave.

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